



September 9, 2003

## **Remaining & Adopted Amendments to the Transportation-Treasury-Independent Agencies Appropriations Act (H.R. 2989) & Budget Update**

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### **Budget Update:**

The following information is provided by the Budget Committee and explains why, as a result of points of order raised on the floor against various provisions of the Transportation / Treasury Appropriations bill, that bill now violates the Budget limits.

“The bill, as reported, provided \$27.501 billion in discretionary budget authority, and reflects a reduction of \$758 million from 2003.

As reported, the bill was \$1 million below the subcommittee’s 302(b) allocation. During floor debate last week, however, several points of order were sustained, causing a substantial net increase in the cost of the bill.

Those points of order caused those parts of the bill to be automatically excised. Some caused budget authority to be increased, others caused it to be decreased; but the net effect increased the cost of the bill to \$27.685 billion, exceeding the suballocation to the Transportation/Treasury Subcommittee by \$183 million. The points of order caused funding to be reduced for the Essential Air Service, Grants in Aid for Airports, and elements of the Border Enforcement Program. A point of order was sustained against a rescission of \$137 million of unobligated balances in a variety of programs – such as the Congestion Mitigation and Air Quality Improvement Program, and the Interstate Maintenance Program – causing spending to be increased by that much. Points of order also were raised against two provisions related to the Alameda Corridor Transportation Authority, causing budget authority to be increased by \$157 million.

Budget authority for certain highway and transit programs – principally the Federal-aid highways program – are classified as mandatory, while the outlays are classified as discretionary. The spending from the mandatory budget authority typically is constrained by obligation limitations. This bill contains limitations totaling \$39.916

billion, of which \$33.385 billion is for the Federal-aid highways program, and \$5.807 billion is for transit formula grants. The \$39.916 billion total is \$232 million above the amount envisioned by the budget resolution; there is no procedural prohibition, however, for exceeding the limit anticipated by the resolution.

As noted above, H.R. 2989, as reported, provided new budget authority at a level that was \$1 million under the 302(b) suballocation for the Subcommittee on Transportation, Treasury and Independent Agencies. Because of the points of order raised on the floor, though, it now breaches that level by \$183 million, violating section 302(f) of the Budget Act. That point of order, however, only lies against the bill's initial consideration and may no longer be raised against it. Though this is the case, the bill is no longer consistent with the House budget resolution for fiscal year 2004 (H.Con.Res. 95)."

### **Amendments Adopted Last Week:**

**Istook** -- reduces the amount of FAA operational funding being derived from the Aviation Trust Fund and increase the amount derived from the general fund. *Adopted by voice vote.*

**Petri/Olver** -- strikes the provision permitting States to elect to spend money provided for Transportation Enhancements (bike trails, museums, beatification, etc) for road and bridge construction. Striking the language reverts to current law, which requires states to set aside 10% of Surface Transportation Program highway funds to be used for transportation enhancement activities. *Passed 327-90.*

**Lewis (CA)** -- transfers \$2 million from the Office of the Chief Information Officer to the Office of Intelligence and Security within the Department of Transportation. *Adopted by voice vote.*

**LoBiondo** -- Places a marker in the bill by decreasing an account by \$2 million and then simultaneously increasing the account by \$2 million. While the amendment has no practical effect on the appropriation bill, this procedure is often followed to direct agencies to review the *Congressional Record*. The sponsor indicates in his amendment summary that he intends this marker to be read as increasing funding for the FAA's Technical Center Facilities Account by \$2 million, and reducing the funding for the In-Plant NAS Contract Support Services. *Adopted by voice vote.*

**Hooley** -- Increases funding for Department of Transportation Office of the Secretary (Salaries and Expenses) by \$500,000 (to \$94.077 million) and reduces funding for Office of Management and Budget (Salaries and Expenses) by \$500,000 (to \$62.272 million). *Passed 213-203.*

**Farr** -- States that it is the sense of the Congress that none of the funds made available in this Act should be used to disestablish any pay locality (as defined by section 5302 of title 5, United States Code). *Adopted by voice vote.*

## **Remaining Amendments in Order Pursuant to the U.C. Agreed to in the House:**

**Manzullo:** Requires that no funds appropriated under the bill used for procurements, subject to the Buy American Act, be spent to acquire articles, materials, and supplies manufactured in the United States that do not have at least 65%, rather than the present 50%, domestic content. The same requirement is applicable to contracts for construction, alteration, and repair of any public building or public work funded by the bill. *Should be subject to a point of order.*

**Delahunt:** Prohibits funds from being used to enforce any restriction on remittances to nationals of Cuba or Cuban households, including remittances for emigration expenses, covered by section 515.570 or 515.560 (c) of title 31, Code of Federal Regulations, other than the restriction that remittances not be made from a blocked source and the restriction that no member of the payee's household be a senior-level government official or senior-level communist party official.

**Hastings (FL):** Prohibits funds from being used by the Office of Management and Budget, under OMB Circular A-76 or any other administrative regulation, directive, or policy, to require agencies to--

- (1) establish an inventory of inherently governmental activities performed by Federal employees;
- (2) establish or implement any streamlined competition procedures;
- (3) require any follow-on competition; or
- (4) implement the tradeoff source selection process for any activities other than information technology activities.

**Hefley:** Reduces discretionary spending provided for in the legislation by one percent (\$893 million).

**King (IA):** Inserts a new section in the bill to modify the expiration date in Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481) relating to Voting System Standards and also adds a new provision to ensure that none of the funds appropriated for Election Assistance under the Help America Vote Act of 2002 (Title II, subtitle D) “may be used to obtain any voting system which is not capable of providing a permanent, auditable, and individually verifiable” record of votes. If adopted the provision would change current law to read (bolded blue text is King amendment):

TITLE III--UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND  
ADMINISTRATION REQUIREMENTS

Subtitle A--Requirements

SEC. 301. VOTING SYSTEMS STANDARDS.

...

(d) Effective Date.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1,

2006, or January 1 of the first calendar year which begins after the fiscal year during which the aggregate amount appropriated for all fiscal years for requirements payments under subtitle D of title II is equal to or greater than \$3,000,000,000, whichever is later.

*Should be subject to a point of order.*

**Maloney:** Prohibits funds from being used to assess or collect any tax liability related to certain assistance given on account of any property or business damaged by, and for economic revitalization directly related to, the September 11<sup>th</sup> terrorist attacks.

**McHugh:** Prohibits funds from being obligated or expended to establish or implement any essential air service program that makes eligibility contingent on local communities' providing matching funds.

**Sanders:** Prohibits funds from being used in a manner inconsistent with the judicial ruling contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99-829-GPM).

In this IBM pension lawsuit, the judge ruled that IBM's pension (cash balance and pension equity) formulas violated the Employee Retirement Income Security Act of 1974 (ERISA) by benefiting younger workers over older workers. For more information, visit this website: <http://www.benefitslink.com/articles/washbull030804.shtml>

During consideration of last year's Treasury-Postal Appropriations bill (H.R. 5120), the House adopted 308-121 a Sanders amendment (H.Amdt. 562) that prohibits the Internal Revenue Service from using any funds for any activities that violate current pension, age discrimination, and tax laws.

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=339>

**Sessions:** Prohibits funds from being used for individual Amtrak routes that fail to recoup 50 cents in revenue (including state subsidies) for each dollar spent in operational costs, as identified in the February 7, 2002, report by the Amtrak Reform Council entitled "An Action Plan For the Restructuring and Rationalization of the National Intercity Passenger System."

**Flake:** Prohibits the use of any funds in the bill to enforce the Treasury Department's regulations prohibiting United States citizens from traveling to Cuba.

**Honda:** Increases funding for Silicon Valley, CA, Rapid Transit Corridor by \$1 million and reduces funding for the San Francisco, CA, Muni Third Street Light Rail Project by the same amount.

**Davis (FL):** Prohibits funds in the bill from being used to implement, administer or enforce the elimination of people-to-people educational exchanges with Cuba.

**Mica:** Requires the National Railroad Passenger Corporation to abide by the same accounting and reporting laws as all other corporations in America. *May be subject to a point of order.*

**Moran (KS):** Increases funding for the Essential Air Service Program by \$63 million offset by (1) reducing funding for Department of Transportation New Headquarters Building by \$35 million, (2) reducing funding for the FAA Operations by \$3 million, (3) reducing funding for Department of Treasury Building and Annex repair by \$25 million.

**Van Hollen:** Authorizes OMB to rewrite and weaken circular A-76 (regarding the privatization process of certain services in federal buildings--like maintenance), while allowing the adherence to the previous version of A-76 until the privatization process is revised. *Should be subject to a point of order.*

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